

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:22-00091

LESLIE RUSSELL BURNEY

**MEMORANDUM OPINION AND ORDER**

Pending before the court is the motion of defendant for a continuance of trial and all related deadlines and for a finding of excludable time under the Speedy Trial Act. (ECF No. 25.) In support of defendant's motion, counsel for defendant explains that (1) counsel needs to confer with the defendant regarding the government's discovery responses, discuss potential investigation that may need to be conducted in light thereof and how he wishes to proceed before determining, what if any, pretrial motion should be filed on his behalf; and (2) the government does not object to a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time

necessary for effective preparation, taking into account the exercise of due diligence.” Id. § 3161(h)(7)(B)(iv).

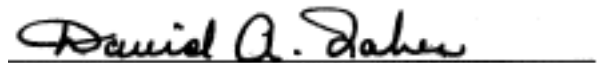
Accordingly, the court hereby **ORDERS** as follows:

1. The deadline for the filing of pretrial motions is continued to **November 9, 2022;**
2. The Pretrial Motions Hearing is continued to **November 16, 2022,** at 2:00 p.m. in Charleston;
3. Jury Instructions and Proposed Voir Dire are due by **November 30, 2022;**
4. Trial of this action is continued to **December 7, 2022,** at 9:30 a.m. in Charleston; and
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

**IT IS SO ORDERED** this 17th day of October, 2022.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge